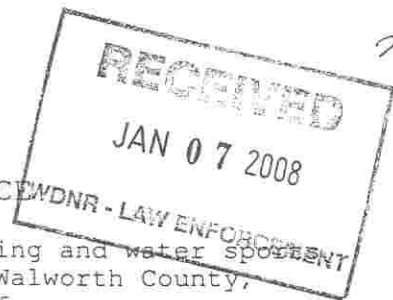


ORDINANCE NO. 041161
WHITEWATER AND RICE LAKE ORDINANCE



A Uniform Ordinance to regulate water traffic, boating and water sports in and upon the waters of Whitewater Lake and Rice Lake, Walworth County, Wisconsin, and prescribing penalties for violation thereof.

The Town Board of the Town of Richmond and the Town Board of the Town of Whitewater, Walworth County, Wisconsin, do ordain as follows:

ARTICLE I. REPEAL OF CONFLICTING ORDINANCES

All ordinances regulating water traffic, boats, boating or water sports upon the waters covered by this ordinance and all ordinances and parts of ordinances in conflict with this ordinance heretofore enacted by the Town of Whitewater and the Town of Richmond, Walworth County, Wisconsin, are hereby repealed.

ARTICLE I-A. APPLICABILITY AND ENFORCEMENT

The provisions of this ordinance shall apply to the waters of Whitewater Lake and adjoining channels and lying within the corporate limits of the Towns of Richmond and Whitewater, Walworth County, Wisconsin. The provisions of this ordinance shall be enforced by a Patrol Officer or officers appointed by and under the jurisdiction of the Town of Richmond and Whitewater, Walworth County, Wisconsin.

ARTICLE II. BOATING

DIVISION 1. GENERALLY

Sec. 30-31. State boating and water safety laws adopted.

The statutory provisions describing and defining regulations with respect to water traffic, boats, boating and related water activities in the following enumerated sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of the statutes, are hereby adopted and by reference made a part of this article as if fully set forth. Any act required to be performed or prohibited by the provisions of the statutes incorporated by reference in this article is required or prohibited by this article as follows:

30.51(1)	Operate boat without valid certificate of number
30.51(1)	Give permission to operate boat without valid certificate of number
30.523(1)	Fail to have certificate of number on boat
30.523(2) or (3)	Failure to display registration number or decal on boat
30.549(1)	Fail to transfer certificate of number or title
30.549(2)	Fail of purchaser to apply for registration or title
30.55(1)	Fail to notify of abandonment or destruction of boat
30.55(2)	Fail to notify of change of address
30.61	Operate boat between sunset and sunrise without required lights
30.61(6)(a)	Moored boats and structures beyond 200 feet from shore without lights

30.61(10) Operate a personal watercraft from sunset to sunrise

30.62(1) Operate without proper equipment

30.62(2) Operate without proper muffler or in excess of maximum noise levels

30.62(3) Failure to provide proper number of personal floatation devices (PFD)

30.62(3)(b) Fail to wear a PFD on a personal watercraft

30.62(3m) Required safety devices

30.62(4) Failure to have required fire extinguishing equipment aboard

30.635 Operate at speed greater than slow-no-wake on lakes 50 acres or less

30.64(2) Reducing speed and yielding right-of-way to patrol boats

30.64(3) Fail to stop for officer

30.65(1)(a) Improper passing when meeting "head to head"

30.65(1)(b) Failure to yield right-of-way

30.65(1)(d) Failure to yield right-of-way to sailboat or rowboat

30.65(1)(e) Failure to yield right-of-way when overtaking or passing

30.65(1)(f) Duty of boat granted right-of-way

30.66(1) Unreasonable or imprudent speed

30.66(2) Operate at speed in excess of posted notice

30.66(3) Operate motorboat within 100 feet of dock, raft or pier at a speed in excess of slow-no-wake speed

30.66(3)(b) Operate a PWC greater than slow-no-wake speed within 100 feet of another boat

30.67 Duty to report accidents

30.67(1) Fail to render aid at boating accident

30.675 Falsifying distress signal

30.68(2) Negligent operation

30.68(3) Operation by incapacitated person or minor

30.68(4) Creating hazardous wake or wash

30.68(4m) Facing backward while operating a PWC

30.68(5) Operating in circular course

30.68(5m) Creating wake while towing with a PWC

30.68(6) Riding on decks or gunwales

30.68(7) Restricted areas

30.68(8) Anchoring in traffic lanes

30.68(8m) Illegal mooring buoys (Daily)

30.68(9) Overloading

30.68(11) Unnecessary sounding whistles

30.68(12) Molesting or destroying aids to navigation and regulatory markers

30.681(1)(a) Operate a motorboat while intoxicated

30.681(1)(b) Operate motorboat with alcohol concentration above 0.10 percent

30.681(2) Cause injury by intoxicated operation of motorboat

30.684(5) Refusal to take chemical test, intoxicated motorboat operation

30.69(1)(a) Operating boat towing water skier without observer

30.69(1)(a) Operating boat towing water skier between sunset & sunrise

30.69(1m)(c) Operate a personal watercraft not designed for 3 people while towing a water skier

30.69(3) Water skiing, within 100 feet of restricted area

30.69(3)(b) Water skiing, within 100 feet of a personal watercraft

30.69(4) Intoxicated skier or aquaplaner

(1) Except as provided in subsection (a)(2) of this section, no person may operate a motorboat towing a person on water skis, aquaplane or similar device unless there is in the boat a competent person in addition to the operator in a position to observe the progress of the person being towed. An observer shall be considered competent if they in fact can observe such person being towed and relay any signals to the operator. This observer requirement does not apply to motorboats classified as class A motorboats by the department actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat. No person shall operate a boat for the purpose of towing a water skier or engage in water skiing except between the hours of 9:00 a.m. and 7:00 p.m. or sunset whichever is earlier, Friday, Saturday, holidays, and the day preceding a holiday. Water skiing and boat wakes are permitted Sunday, Monday, Tuesday, Wednesday and Thursday from 9:00 a.m. to sunset except if one of these days would be a legal holiday or the day preceding a holiday.

(2) Subsection (a)(1) of this section does not apply to duly authorized water ski tournaments, competitions, exhibitions or trials therefor, where adequate lighting is provided.

(b) Careful and prudent operation. A person operating a motorboat having in tow a person on water skis, aquaplane or similar device shall operate such a boat in a careful and prudent manner and at a reasonable distance from the persons and property so as not to endanger the life or property of any person.

(c) Restriction. No boat towing persons engaged in water skiing, aquaplaning or similar activity on any lake shall engage in such activity within 100 feet of any occupied anchored boat or marked swimming area or public boat landing except where pickup and drop are established and marked with regulatory markers.

(d) Tow lines. There shall be no more than two tow lines and only two persons using the tow lines as a means of water skiing or similar sport. The persons being towed must be equipped with a Coast Guard approved personal flotation device. No tow line shall exceed 75 feet in length.

(e) Observance of rules. Any boat engaged in towing a person or water skis, aquaplane or similar device must conform to all sections of this division and, in addition must operate in a counterclockwise pattern on both lakes and inlet and outlet in the traffic lane.

(f) Towed or untowed flight banned. No water skier behind any boat will be permitted to be lifted into the air by any means including parasailing, hang gliding or other means, whether the tow remains in place or not, after the skier is aloft.

Sec. 30-60. Speed Restrictions.

(a) All boats shall operate at a slow-no wake speed after 7:00 p.m. or sunset, whichever is earlier, on Fridays, Saturdays, holidays and the day preceding a holiday, to 9:00 a.m. the following day. All other days, water skiing will be permitted from 9:00 a.m. until sunset. The maximum speed outside the traffic lane shall be "slow-no wake" at all times every day of the week.

(b) The provisions in subsection (a) shall not apply to boats participating in duly authorized races, water ski tournaments or exhibitions, or over a course laid out, plainly marked and adequately patrolled.

Sec.30-61.Swimming Regulations.

(a) Swimming from boats prohibited. No person shall swim from any boat unless such boat is anchored and unless the swimmers stay within 25 feet of the boat. Boats used as bases for swimmers shall be adequately supplied with Coast Guard approved flotation devices to be used in emergencies.

(b) No person shall swim more than 150 feet from the shore nor shall any person do any distance swimming unless he or she is accompanied by a boat containing a ring buoy or Coast Guard approved personal flotation device and person trained in life saving technique. For this type of swimming, if there be more than one swimmer, each shall be accompanied by a boat. No person shall swim in a traffic lane from sunset to sunrise.

Sec.30-62.Aircraft Prohibited.

It is hereby prohibited for any aircraft to land upon the surface of Rice or Whitewater Lakes covered by this division. The surface shall include ice as well as water. All provisions of this section shall be consistent with W.S.A. § 114.105.

Sec.30-63.Mooring of Boats.

No person, firm or corporation shall dock or moor any boat on the waters or along the shores of Rice and Whitewater Lakes for the purpose of living, sleeping or camping.

Sec.30-64.Organized Events and Displays.

(a) No person, persons or corporations shall organize or participate in any event or display upon the surface of Whitewater or Rice Lakes without first obtaining a permit for such activity from the town board of the town in which the activity shall be held.

(b) Request for a permit for organized events or displays shall be presented to the town board in triplicate before the second Monday of the month preceding the event.

(c) Request for a permit shall describe the event, time of the event, and area of the lake to be used.

(d) Upon action by the proper town board, one copy of the permit shall be returned to the applicant, and one copy to be retained by the town clerk.

(e) It is unlawful for any person or persons, during an organized event or display approved by either of the Town Boards, to anchor any boat within the designated area for the organized event or to in any way interfere with the participants or the organized event in any manner.

Sec.30-65.Additional Traffic Rules.

In addition to the foregoing, the following rules shall apply to boats using the waters of Rice and Whitewater Lakes:

(1) Mooring lights required. No person shall moor or anchor any boat, raft, buoy or other floating object or permit it to drift in the traffic lane described in Section IV between sunset and sunrise unless there is prominently displayed thereon a white light of sufficient size and brightness to be visible from any direction (360 degrees) for a distance of one mile on a dark night with clear atmosphere. This subsection does not apply to duly authorized water ski tournaments, competition exhibits, or displays or trials thereof where adequate lighting is provided.

(2) The drivers or operators of all boats by means of which aquaplanes, water skis or similar objects are being towed, and the riders of such aquaplanes, water skis or similar objects, must conform to the same rules and clearances as provided for in this division.

Sec.30-66.Forfeitures.

Any person who shall violate the provisions of Division 2 shall forfeit not less than \$10.00 nor more than \$200.00, together with costs imposed by law.

Secs.30-67-30-75.Reserved.

DIVISION 3. LAKE ACCESSES

Sec.30-76.Intent.

It is the intent of this division to provide for safe public use of the accesses held in trust by the Towns of Whitewater and Richmond, Walworth County, Wisconsin and to preserve the natural resources in these areas.

Sec.30-77.Citations.

Citations for violations of any of the following provisions shall follow the procedure listed in W.S.A. §§ 66.119 and 66.12. Cash deposit for violation shall be a minimum of \$35.00 for the first violation and shall not exceed \$200.00 for succeeding offenses.

Sec.30-78.Improvements on accesses.

As provided in W.S.A. § 236.16, nothing in this division shall require either of the Towns to improve the land provided for public access.

Sec.30-79.General use of accesses.

The general public may use the accesses for getting fishing, boating and recreational equipment to the lake on those accesses where terrain and soil conditions make possible safe and reasonable movement of such equipment from the nearest public highway to the lake. No use of the lake access that is in violation of state, federal or county statutes shall be permitted.

Sec.30-80.Special uses of accesses.

Special uses of the lake accesses shall include but not be limited to: research groups, weed harvesting and chemical treatment operators, sea wall construction operators, heavy equipment operators.

Sec.30-87.Special use permits.

(1) Special use operators shall file with the town clerk in which the work is to be done an application for a special lake access use permit. Such application shall describe the date of the beginning and ending of the operation, the special equipment to be used, provisions for public safety provided, evidence of liability insurance adequate to cover all possible accidents or damage to other persons, equipment or to terrain or vegetation on the access, provision for restoring the access to its condition at the start of the operation, evidence of state, county or federal permits required, an agreement to cease operation and remove equipment within 48 hours of an order of that town board, and the nature of and length of time any materials will be stored on the access. That town board may require a bond to be posted by the applicant for possible costs in restoring the site to its condition prior to the special use. The town may require the applicant to sign a statement freeing the town from liability to other users while the special use is in progress or as a result of that special use.

(2) The town board in which the work is to be done shall, in open meeting, review the application for special use of the access or accesses. That town board shall approve or disapprove the application. In the event of approval, the town board will designate which access or accesses may be used, the time of each use and shall direct the clerk to issue the permit. This permit must be displayed on the access or accesses while the work is in progress. As the work progresses, the town board may inspect or cause to be inspected, the operation. If upon inspection the operation is not deemed to be in the public interest or violates any town ordinance or any of the terms or conditions of the permit, it may require the operator to cease and desist in the operation and restore the access or accesses to the condition that existed at the start of the operation. The board may require the operator to surrender his permit for the operation.

Sec.30-82.Parking on accesses.

Parking shall be permitted on the access in designated areas only between the hours of 6:00 a.m. to 11:00 p.m. If parking areas are not designated, all parking shall be done in such a manner that the public may have unimpeded access to the lake at all times. The town boards, in their respective jurisdiction, may designate no parking areas when such areas are in the best public interest. Stopping or standing a vehicle on the access shall be only for short periods of time and shall be done in a sharing manner with other access users.

Sec.30-83.Storage of items on lake accesses.

Storage of any material or materials, equipment, weeds or bog material shall be for a minimal length of time. Any storage shall be allowed only after a special use permit has been issued to the person or persons needing to store materials on the access in order to perform lake-oriented services. Such permit shall be for the shortest possible storage period. Materials stored on the lake accesses shall be only of those materials necessary for lake projects such as, but not limited to, weed harvesting, bog removal, chemicals for authorized treatment of aquatic nuisances, materials for erosion and eutrophication control, and navigation and traffic control devices and research equipment.

Sec.30-84.Alteration and encroachment of accesses.

No person shall alter the natural terrain of the access by drainage, planting or cultivating vegetation without special permit issued by the town

board after acquiring assurance in writing from state and county agencies that such alteration is not in violation of state and county statutes and ordinances. No person shall encroach upon any access by alteration of boundaries, construction of buildings, drainage of liquids, or deposition of solid waste materials.

Sec.30-85-30.90.Reserved

DIVISION 4. PROCEDURE

Sec.30-91.Citation; Nature, Issuance, Release of Accused

(a) Nature. A citation under this section is a directive, issued by a law enforcement officer, that a person appear in court and answer charges. A citation is not a criminal complaint and may not be used as a substitute for a criminal complaint.

(b) Authority to issue; effect. A law enforcement officer may issue a citation to any person whom he or she has reasonable grounds to believe has committed a violation of any provisions of the Article II of this ordinance. A citation may be issued in the field or at the headquarters or precinct station of the officer instead of or subsequent to a lawful arrest. If a citation is issued, the person cited shall be released on his or her own recognizance unless the law enforcement officer requires the person cited to post a bond. In determining whether to require a bond, the law enforcement officer may consider whether:

- (1) The accused has given proper identification.
- (2) The accused is willing to sign the citation.
- (3) The accused appears to represent a danger of harm to himself or herself, another person or property.
- (4) The accused can show sufficient evidence of ties to the community.
- (5) The accused has previously failed to appear or failed to respond to a citation.
- (6) Arrest or further detention appears necessary to carry out legitimate investigative action in accordance with law enforcement agency policies.

(c) Contents. The citation shall do all of the following:

- (1) Identify the offense and section which the person is alleged to have violated, including the date, and if material, identify the property and other persons involved.
- (2) Contain the name and address of the person cited, or other identification if that cannot be ascertained.
- (3) Identify the officer issuing the citation.
- (4) Direct the person cited to appear for his or her initial appearance in a designated court, at a designated time and date.

(d) Service. A copy of the citation shall be delivered to the person cited, and the original must be filed with the circuit court.

(f) Citation no bar to criminal summons or warrant. The prior issuance of a citation does not bar the issuance of a criminal summons or a warrant for the same offense, provided the citation is dismissed after the criminal summons or warrant is issued.

(g) Preparation of form. The judicial conference shall prescribe the form and content of the citation under W.S.A. §758.171.

Sec.30-92.Failure of Defendant To Appear.

(a) If the person so arrested for violation of this ordinance and released fails to appear personally or by an authorized attorney or agent before the court at the time fixed for the hearing, the money deposited by the accused pursuant to the provisions of this ordinance shall be retained and used for the payment of the forfeiture, which forfeiture may be imposed either with or without cost as determined by the court after the exparte hearing upon the accused. The excess, if any, shall be returned to the person who makes the deposit upon his making application for the same. If the accused is found not guilty, then the entire amount of the deposit shall be returned to the depositor.

(b) Any person violating any of the terms of this ordinance shall be subject to arrest whether at the time of the arrest he is on the waterways or upon the shore, and any water patrol office may pursue the offender ashore to enforce the terms of this ordinance.

Sec.30-93.Bond.

The law enforcement officer or any town police officer may accept money or bond deposits from any person charged with a violation of this ordinance, and upon receipt of the bond shall issue a receipt for the bond received to the person. The law enforcement officer or town police officer or the county court shall deliver forfeited bond deposits to the town treasurer upon order of the county court and within seven days after the court issues the order.

ARTICLE III. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase hereof. The Town Board of the Town of Richmond and the Town Board of the Town of Whitewater hereby declare that they would have passed this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

ARTICLE IV. Effective Date

This ordinance shall be effective from and after its adoption by the Town Board of Richmond and the Town Board of Whitewater and its posting or publication thereof as provided by the statutes of the State of Wisconsin.

Passed and adopted by the Town Board of the Town of Whitewater, Walworth County, Wisconsin this 11th day of April, 2001.

TOWN BOARD OF TOWN OF WHITEWATER,
WALWORTH COUNTY, WISCONSIN

Ronald Fero
Ronald Fero, Chairman

Norman Prusener
Norman Prusener, Supervisor

Ralph R Goessling
Ralph Goessling, Supervisor

Jayne Haskey
Jayne Haskey, Town Clerk

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the Town Board of the Town of Whitewater, Walworth County, Wisconsin, held on the 11th day of April, 2001.

ATTEST:

Jayne Haskey
Jayne Haskey, Town Clerk

Published: May 24, 2001